

**REGULAR MEETING MINUTES
CITY COMMISSION**

December 9, 2004

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

PRESENT: Mayor Jack Quesinberry, Commissioners Bill Thompson, Theo Graham, Mildred Dixon (arrived at 6:38 p.m.), and John Harriman

Also Present: City Manager Hollis Holden, Assistant City Attorney Lionel Rubio, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, City Planner Mark Cechman, Utilities Director Fernand Tiblier, Trailer City Manager Hughlan Martin, Finance Director Mike Bollhoefer, Information Technology Director Bob Reilly, Building Official Jake Wright, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

1. **APPROVAL OF MINUTES**

Regular Meeting Minutes of November 11, 2004 and Joint Workshop with Planning and Zoning Board Meeting Minutes of November 18, 2004

Motion by Commissioner Thompson to approve both minutes as submitted. Seconded by Commissioner Harriman and carried unanimously 4-0.

2. **FIRST READING OF PROPOSED ORDINANCES (Items A & B are public hearings)**

A. **Ordinance 05-01:** AMENDING SECTION 118-488 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO SPECIAL EXCEPTIONS WITHIN THE R-NC RESIDENTIAL NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 05-01 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed.

Motion by Commissioner Harriman to approve Ordinance 05-01 with the second reading and public hearing on January 13, 2005. Seconded by Commissioner Thompson and carried unanimously 4-0.

B. **Ordinance 05-02:** AMENDING THE WINTER GARDEN COMPREHENSIVE GROWTH MANAGEMENT PLAN TO ALLOW FOR THE DEVELOPMENT OF AN OPEN AIR MALL ON THAT CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535 AND GENERALLY KNOWN AS THE FOWLER PROPERTY BY SPECIFICALLY AMENDING POLICY 1.3 OF THE FUTURE LAND USE ELEMENT BY INCLUDING A

“BELTWAY CENTER” LAND USE CATEGORY; AND AMENDING OBJECTIVE 3 OF THE CAPITAL IMPROVEMENT ELEMENT BY ESTABLISHING A POLICY IDENTIFYING PROPORTIONAL SHARE CONTRIBUTION FOR INFRASTRUCTURE IMPROVEMENTS REQUIRED BY A DEVELOPMENT OF REGIONAL IMPACT; AND AMENDING THE FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION OF THE AFORESAID REAL PROPERTY GENERALLY KNOWN AS THE FOWLER PROPERTY FROM WINTER GARDEN LOW DENSITY RESIDENTIAL AND CONSERVATION OVERLAY TO CITY BELTWAY CENTER WITH A CITY CONSERVATION OVERLAY; AND REVISING POLICY 9.3.2.4 OF THE FUTURE LAND USE ELEMENT BY CHANGING THE DESIGNATION OF THE FOWLER PROPERTY TO BELTWAY CENTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 05-02 by title only. City Planner Cechman stated that staff has been working with The Sembler Company for over a year now on the Fowler property becoming a mall and this is the very first step in the process. Staff is asking the Commission to approve the transmittal of the Comprehensive Plan Amendment to the Department of Community Affairs (DCA). As part of the transmission, it will include establishing a new use category called “Beltway Center” to clarify the mall usage. Also included is an amendment to the Future Land Use Element to allow for the new Beltway Center and a request to amend the Capital Improvement Plan to allow for a proportional share of cost for some of the improvements that will have to be made. If this Ordinance is approved, it will be mailed to the DCA, which will have 60 days to send us their Objections, Recommendations, and Comments (ORC) Report for staff review. Then it will go to the adoption stage which is estimated to be sometime in March. Meanwhile, staff is negotiating with the applicant for the rezoning, which will contain much more detail. Another item being worked on is the Development Agreement which will identify what roads will have to be built, what utilities will have to be installed, and will ultimately come before the City Commission for approval. The Planning and Zoning Board and staff have reviewed this item and recommend approval. Mr. Cechman announced that State law requires staff to provide the public with a sign-in sheet, which is in the lobby area, and whoever signs it will receive notices from the State regarding this project. Staff has also received written correspondence on this item, which has been provided to the City Commission. Mayor Quesinberry opened the public hearing.

Commissioner Dixon arrived at 6:38 p.m.

John Rinehart, with Glatting Jackson representing The Sembler Company, stated that whatever the City Commission does on this item tonight, does not commit any further decision from the City Commission at this time. It is only to transmit the plan to the State. Numerous neighborhood meetings, a community meeting at Tanner Hall, and workshops have been conducted. Workshops with the Planning and Zoning Board and the City Commission have also been conducted. All information has been fully disseminated and they are present to answer any questions.

Shirley Smith, 21 W. Crest Avenue, Winter Garden, Florida, and owner of Shirley's Antiques on Highway 50 in Winter Garden, stated that she would like everyone to know she is in favor of this open-air mall. The Semblers are very willing to help move traffic to the north and she believes the shops will compliment what the City has now. The center will give us the conveniences that we currently now have but have to travel east and west to get to. She believes the mall will compliment our community as a whole.

E. Bruce Lawson, 1839 Black Lake Blvd., Winter Garden, Florida, stated that he would like to see more stores and a better tax base for the community. A Comprehensive Plan is a dynamic document that as the times change, needs to be changed. He believes the plan should be moved forward and submitted to the DCA. From what he has seen thus far, he believes it is the best thing for the City.

Gary Hessert, 14113 Lake Tilden Blvd., Winter Garden, Florida (Country Lake Estates) unincorporated Orange County, stated that while this item is a request for the transmittal of the Comprehensive Plan Amendment, he wonders if the City is also sending a message to the State that the Commission already approves of the idea. The State will expend a lot of funds making their review and he questioned what would happen if the State makes recommendations back to the City Commission that may not be something the City may want to do. What would the State think about you asking them to spend a lot of money to tell the City what to do because the City thinks it is a good idea. City Manager Holden stated that the City cannot answer for the State.

Thomas J. Harrell, 14243 Hampshire Bay Circle, Winter Garden, Florida (Bay Isle) stated that to date, there has not been any balance established. He believes there are other alternatives that should be considered rather than rubber stamping this and sending it on to the State. The community meetings with The Semblers have basically been meetings whereby the residents have been held hostage to the developer who listens to questions and answers and answers what he wants to answer. There was a tremendous amount of opposition expressed at those meetings. The current zoning provides for a very minor amount of commercial development in this area. A lot of people based their home purchases upon the residential communities in the area. He doesn't believe the Commission should limit the area but he is not in favor of the entire piece of property, which is directly adjacent to very expensive homes, being zoned commercial. There will be noise and light pollution. There does not seem to have been any transitional development planning in the proposal whereby adjacent to the existing communities you might have a multiple family residential zoning that then transitions to perhaps office or hotel, then to a community based type retail and ultimately to warehouse stores. He believes that could be done and it would be more palatable to the area. The communities north and west of the site would be in favor of more office/residential development. There are alternatives that should be considered at this level rather than sending it to the State for the entire development to be commercial and asked the Commissioners to take the time to make these considerations before submitting it to the State. He urged the Commission not to send the plan to the State at this time but to table it for more discussion within the community.

Karen Shoulta, 13742 Glenshell Drive, Winter Garden, Florida (Stonecrest), stated that her property is directly adjacent to the Fowler property and is speaking on behalf of some of her neighbors who could not attend. When she purchased her property five years ago, she was told the adjacent property was zoned residential. She found comfort in knowing that because she doesn't want to live near a commercial area. She stated she has read the minutes of prior Commission action whereby her development was zoned PUD and part of the discussion included a comment by the Mayor regarding the villages being directly adjacent to where the community center would be and expressed his concern about the safety of those walking from their homes to the community center. They need to go from village to village without going out onto the street to walk to the community center. Her village is actually across from Daniels Landing so she would need to cross a five-lane road to take her child to the tot lot. She is also concerned about what the speed limits would be. She begged the Commission to consider the concerns about children and people walking on the same side of the street as the community center, and for their safety of those across the street. In addition, what about students waiting for school buses? This mall is not in the best interest of the area residents. Why put a major thoroughfare through a PUD? She begged them to think about all the additional children that will become a part of the five villages that are yet to be built.

Dan Maher, 14237 Hampshire Bay Circle, Winter Garden, Florida, (Bay Isle) stated that he has been involved in most of the meetings between his homeowners' association and The Sembler Company. The Sembler Company first marketed the project to the public, which made it appear they already had the blessing of the City. He wants to keep Winter Garden what it is today and he doesn't want to be like Ocoee with a big mall, traffic, crime, etc. Please hear the public and don't make a quick decision on this project.

Mayor Quesinberry closed the public hearing.

Motion by Commissioner Harriman to approve Ordinance 05-02 and schedule the second reading and public hearing after receiving the State's approval. Seconded by Commissioner Thompson.

Commissioner Graham asked about Section 1: "Buildings shall be limited to four floors with a maximum height of 50 or 68 feet for architectural towers except that no building shall exceed 35 feet (excluding architectural features)." Thirty-five feet meets our firefighting requirements but he is not sure we could fight a 68-foot fire without a ladder truck. **Mr. Rinehart** stated that if the height is an issue, he is sure that the review will come back with comments but that no one would occupy an elevation above 35 feet. These heights are similar to a church steeple for aesthetic purposes. **Commissioner Graham** asked if there would be lights. **Mr. Rinehart** stated that there may be lights. **City Manager Holden** replied that there has been discussion with the Fire Chief and what would trip the need for a ladder truck that if it comes to that, it would become part of the agreement, and the City would negotiate an appropriate payment for that additional fire service. **Commissioner Graham** asked how many acres are in the project because Phase 1 looks to be 40. **Mr. Reinhart** replied that the application is for approximately

174 acres. **Commissioner Graham** asked how much land will the mall cover. **Mr. Rinehart** stated that the entire site will be a combination of different pieces but the mall will be roughly 35 acres. There will be lakes, buildings, plaza areas, and parking. There is also a conservation area on the east side. **Commissioner Graham** stated that Section 1 refers to offices, hotel, civic and residential uses so where would the residential use be located. **Mr. Rinehart** stated it is in Phase II and the location has not yet been defined. It could actually be mixed and on a second floor of the retail. There is not a large amount of residential. **Commissioner Dixon** stated that the Comprehensive Plan must be periodically reviewed and will be changed from time to time. Any change must be submitted to the State and then the State asks the County etc. to review the plan. We currently travel elsewhere to get to a mall and those locations reap the benefits of the revenue, so we do need to look ahead. The City has to look at the economic picture, think about jobs, stores, and keep revenue in Winter Garden. **Commissioner Harriman** stated that Stonecrest has some serious safety issues that will have to be addressed. He sympathizes with the residents crossing Daniels Road but he hopes it can be taken care of to the satisfaction of the residents. **Commissioner Graham** stated that he attended the public meeting at Tanner Hall and heard comments about noise and the developer has made changes that he personally believes will reduce the noise because it is now 260 feet from the highway, will be buffered with a six-foot berm, vegetation, retention area, another buffer, and along the building there will be additional trees. The architecture depicts the backside of the buildings looking like the front. There was also concern expressed about traffic, but there will be two four-lane roads as an extension of Daniels Road. He doesn't believe the speed limits will be as high as 40 to 50 mph through the area and there will be stoplights. A lot of requirements will be necessary to address all the concerns.

Motion carried unanimously 5-0.

C. Ordinance 05-09: VACATING THE SOUTHERNMOST APPROXIMATELY 480 FEET OF PARK AVENUE; PROVIDING AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 05-09 by title only. **Motion by Commissioner Harriman to approve Ordinance 05-09 with the second reading and public hearing on January 13, 2005. Seconded by Commissioner Thompson.** Commissioner Graham stated that the vacated area is 380 x 75 x 60, which was originally created as part of a dedication for a street. The adjacent property owners will be allowed to extend their property boundaries to include this vacation at no cost to them; it will increase their property value; and they will pay additional property taxes. However, his point is that the City is giving away City property. Assistant City Attorney Rubio stated that the vacation process is different for an easement held in trust by the City for the public as opposed to the City owning a fee simple interest on a property conveyed to the City. In this situation, the property has been previously dedicated to the City and if the City has no interest or use for the property, the proper procedure is to vacate the City's interest. Commissioner Graham stated that he is not opposed to the vacating but he feels giving it away for free does not generate revenue for the City. Commissioner Dixon stated she is confused by what Commissioner Graham is stating because he has previously stated that the City should not be in the selling of real estate business. Her

point is that if the land is there and the City is not ever going to use it, then why hold it when it is useful to others. What is his objection? Commissioner Graham stated that his point is that the City is giving something away that it could sell. **Motion carried unanimously 5-0.**

D. Ordinance 05-10: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ADJUSTING THE STORMWATER MANAGEMENT FEE IN CHAPTER 78 ARTICLE VI, PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 05-10 by title only. Finance Director Bollhoefer stated that a revised Ordinance has been provided that removes the last sentence under Section 4 due to a scrivener's error. The Stormwater Management System was first established in 1994 to primarily minimize flooding and the adverse effects on Lake Apopka and other water sources. The system is funded by fees to customers because it is the most equitable method and because it provides a dedicated source of funds to provide the stormwater service. The funds can only be used for stormwater projects. The rate study, performed by Public Resource Management, has been provided and shows the necessary funding for the next five years. This study is based upon planned projects and operating costs. All projects listed are necessary to both maintain and improve our stormwater system. The report shows that our current rates will not support project funding. Therefore, we need to increase the fees. The recommendation includes minimizing the impact of a fee increase, a phase-in plan, an SRF loan, and a general fund loan. The recommended increase is for one dollar the first year and 25 cents a year for the next four years. Commissioner Harriman asked if most of the stormwater problems are north of SR 50. Mr. Bollhoefer stated that predominately it is to the north of 50 but it is interlinked throughout the City. City Manager Holden stated that many of the lakes that are to the south ultimately drain back to Lake Apopka. **Motion by Commissioner Dixon to approve Ordinance 05-10 with the second reading and public hearing on January 13, 2005. Seconded by Commissioner Harriman and carried unanimously 5-0.**

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. Ordinance 04-75: PROVIDING FOR THE CLOSING, ABANDONMENT, VACATION AND DISCONTINUANCE OF RIGHT-OF-WAY GENERALLY DESCRIBED AS BEING APPROXIMATELY 422.89 FEET SOUTH OF ROPER ROAD ALONG DANIELS ROAD, SAID LANDS LYING AND BEING IN WINTER GARDEN, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 04-75 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to approve Ordinance 04-75. Seconded by Commissioner Harriman and carried unanimously 5-0.**

B. Ordinance 04-78: CREATING A POLICY AND PROCEDURE TO FACILITATE THE REDUCTION OF DENSITY WITHIN TRAILER CITY MOBILE HOME PARK; PERMITTING THE CITY TO PURCHASE MOBILE HOMES OFFERED

FOR SALE BY THEIR OWNERS AND TO THEREAFTER REMOVE THE SAME FROM THE PARK; PERMITTING THE CITY TO PROVIDE FUNDING TO ASSIST OWNERS WHO WISH TO RELOCATE THEIR MOBILE HOME TO ANOTHER MOBILE HOME PARK; PERMITTING THE CITY TO RELOCATE WITHIN TRAILER CITY MOBILE HOME PARK REMAINING MOBILE HOMES SO AS TO COMPLY WITH ZONING AND FIRE SAFETY REGULATIONS; PROVIDING FOR THE RELOCATION OF MOBILE HOMES WITH THE REVENUES GENERATED BY THE OPERATION OF TRAILER CITY MOBILE HOME PARK; PROVIDING THAT OWNERS OF MOBILE HOMES LOCATED IN TRAILER CITY MOBILE HOME PARK INTENDING TO PLACE A MOBILE HOME ON THE MARKET FOR SALE MAY FILE A NOTICE OF INTENDED SALE WITH THE PARK MANAGER; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Assistant City Attorney Rubio read Ordinance 04-78 by title only. Finance Director Bollhoefer stated that he wanted to point out what the plan does: 1) it does not close the park; 2) it allows the Commission to reassess the park status after five years; 3) it does not force anyone to sell their mobile home; 4) it does not force anyone to sell their mobile home to the City; 5) it does not force anyone to find a new place to live. The plan does state that it is the City's intention to reduce the number of mobiles in the park from approximately 150 to 80. It establishes procedures for the City to purchase mobile homes from any resident who desires to sell to the City. It includes a provision to hire an independent appraiser to value the home to ensure the residents receive a fair value. The plan addresses the overcrowding problem and improves the safety of residents, improves their quality of life, and improves the aesthetic value of the park as it affects the surrounding neighborhoods. Staff would like to work with the residents to make the plan work. Mayor Quesinberry opened the public hearing.

Bob Cole, 24 Temple Drive, Winter Garden, Florida (Trailer City), spoke in opposition to the plan and does not agree that the reduction plan makes him any safer. He does not believe that relinquishing his residence in Trailer City will make him anymore secure from fire damage. The original proposed plan was for eight years and he believed that plan was accepted but now he is faced with a five-year plan. He asked while the Trailer City Christmas Parade float was being built, why they were approached on two different occasions by city employees advising them that they could not put their web address on their float and he asked Mr. Holden whether or not all parade entrants were advised that they could not put a web address on their floats or was Trailer City the only one. Mr. Holden advised that he would respond at his designated time.

Don Miller, 1074 Woodson Hammock Circle, Winter Garden, Florida asked why the City allowed all the Code violations to occur in the first place and why couldn't they be corrected by the City instead of just letting them pile up to the point somebody wanted to close the mobile home park. This plan is to create more space between the homes, which could have been done in the first place. He supports those living in Trailer City and as such if he were sitting on the City Commission he would have voted against the closure.

Richard Napotnik, 1633 Fullers Cross Road, Winter Garden, Florida stated that in his opinion the issue all along has been that the City Manager is deliberately looking to close the trailer park in order to increase the City's tax base. The five-year plan is only a measure to close the park sooner. It appears that in order to make it easier to push the people out, the park will be dwindled down to 80 trailers. The people are upset because no one will listen to them or discuss items with them. The representation for the District has broken down and now they don't even have that. Passage of this ordinance will be a sad day for this Commission because the citizens will have no alternative but to go into phase two. There is also a phase three coming because the people have to take some action, we can't sit back and let these people be thrown off the land. These are elderly people. This issue should have been put on a ballot for the citizens to vote on. If they would have voted to close Trailer City, he would not be present now and there would be no lawsuits coming up.

Shirley Smith, 21 West Crest Avenue, Winter Garden, Florida stated she lives about a block from Trailer City and has taken it for granted that it would always be there. The fact that there is no other reasonably priced housing for the residents is what is so offensive to everyone. If the City budget is in such great condition, then why can't the City leave Trailer City as it is and let it phase out over time? The site is historical and she is opposed to closing Trailer City.

Mayor Quesinberry closed the public hearing. **Motion by Commissioner Thompson to adopt Ordinance 04-78. Seconded by Commissioner Harriman.**

Commissioner Graham stated that if this action is to not close the park, then why did we begin by passing motions that specifically included closure in the language and post a closure sign in the park. Commissioner Graham read from the report by the City Manager from the meeting at Tanner Hall whereby Mr. Holden stated he had been with the City for five years and "In early 1999, after five years of observation, it became clear that the policies intended to facilitate attrition of the older trailers in the park were not working" and according to this statement for five years we were trying to eliminate trailers. The language in this Ordinance states that the residents "may" offer the trailer to the City but they will actually have to offer it to the City because they will not be able to sell their trailer to anyone else in light of the park closing. He wouldn't buy something that would have to be moved and therefore the residents are handicapped in this respect. The State Statute clearly states that the City cannot interfere with anyone selling their mobile home. He predicts that reducing the park to half its size of 80 trailers will have staff coming back stating that 80 trailers is not bringing in enough revenue so the park needs to be closed. Under F.S. 723.041(4) "Except as expressly preempted by the requirements of the Department of Highway Safety and Motor Vehicles, a mobile home owner or the park owner shall be authorized pursuant to this section to site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park." The park has been at this location since 1935 and they are grandfathered in under this provision. The trailers are sitting just where the City told them to sit the trailers. There are houses in Winter Garden that are so close you can

put your hand out and touch both of them at the same time and they are under the fire code as well but they cannot be forced to move the houses because they are grandfathered in. State Statute 723.058 subsections 1, 3, and 5 cover the restrictions on the sale of mobile homes; under Section 1 "No mobile home park owner or subdivision developer shall make or enforce any rule, regulation, or rental agreement provision which denies or abridges the right of any mobile home owner or owner of a lot in a mobile home subdivision to sell his or her mobile home within the park or mobile home subdivision; which prohibits the mobile home owner or the owner of a lot in a mobile home subdivision from placing a "for sale" sign on or in his or her mobile home (except that the size, placement, and character of all signs are subject to properly promulgated and reasonable rules and regulations of the mobile home park or mobile home subdivision); or which requires the mobile home owner or the owner of a lot in a mobile home subdivision to remove the mobile home from the park or mobile home subdivision solely on the basis of the sale thereof." Under Section 723.083 "Governmental action affecting removal of mobile home owners. No agency of municipal, local, county, or state government shall approve any application for rezoning, or take any other official action, which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners." We are not saying that if the City buys the trailer, we have a place for you to live or if you move your trailer we will find you a place to go. We are not doing that and he believes that the City is held accountable under this provision if we close the park. He believes this action is to close the park because there are too many actions taken, on record, that clearly state it is being closed. **Finance Director Bollhoefer** stated that the only official document is this Ordinance 04-78, which does not require anyone to move or sell, therefore it would not fall under the referenced Statute 723. **Commissioner Graham** stated that we are closing the park and are just doing it another way by buying up trailers because no one else is going to buy them. The Ordinance mentions three actions to be taken five years from now: keep it open, continue to buy trailers, or close it. **Commissioner Dixon** stated her concerns about the non-compliance with zoning and fire safety regulations and it should include language to meet compliance. She is not voting to close Trailer City. **Mr. Bollhoefer** stated that the plan does address the issue of compliance because after reducing the density to approximately 80 trailers, they will be redistributed to increase the distance between the homes to improve the safety and quality of life. **Commissioner Graham** read two previous actions from the minutes that specifically state "closure". The issue could have been put to a vote of the citizens and he would have supported their decision but he feels that a petition with 3,870 signatures filed with the City Clerk and the West Orange Times survey showing more in favor of keeping it open are representative of what the public wishes are. If there is a fire hazard, we just increased our insurance liability in case we run into any problem, so grandfather them in. **Commissioner Harriman** asked if the plan includes a relocation provision. **Mr. Bollhoefer** stated it does; \$3,000 for single-wide and \$5,000 for double-wide; and if more is needed the request can go to the City Commission. **Hughlan Martin**, Trailer City Manager, stated that three mobile homes have sold to new people in the last two to three weeks, which is not bad for this timeframe. **June Osborne**, 7 Laurel Drive, Winter Garden, Florida, (Trailer City), stated there are some new people buying and moving in. **Commissioner**

Graham pointed out that on page 4 under item "I" it states "At the end of the five year period, the City shall review the advisability of the continuation of the Park, extending this Ordinance for an additional period if the goals have not been reached, or phasing-out the operation of the Park." It does not use "may" but uses "shall," unless of course the Ordinance is repealed before the five years is up. **City Manager Holden** responded to Mr. Cole's question about the web address and the direction he gave to staff was that it was a Christmas parade and if there is a float from Trailer City, there cannot be a political message on the float. He has no idea what the web address is or was. The purpose of the parade is to wish people a Merry Christmas and not for politics. We have never had a political message transmitted of any sort in any Christmas parade since he has been the City Manager and he did not tell staff to remove the Trailer City web address. **Motion carried 4-1; Commissioner Graham opposed.**

C. **Ordinance 04-79: AMENDING THE CITY OF WINTER GARDEN FISCAL YEAR 2004-2005 BUDGET; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE**

Assistant City Attorney Rubio read Ordinance 04-79 by title and stated it provides for amending the revenue and expenditures by \$300,000. Mayor Quesinberry opened the public hearing. **Motion by Commissioner Harriman to adopt Ordinance 04-79. Seconded by Commissioner Thompson and carried 4-1; Commissioner Graham opposed.**

D. **Annexation Agreement: Property owner acceptance of the 5th Amendment to the Joint Planning Agreement between Orange County and the City of Winter Garden**
Motion by Commissioner Dixon to approve annexation agreement between the City and Kate Burch Groves Inc, Lake Hancock Groves, Inc., Selby R. Burch and Joseph S. Burch. Seconded by Commissioner Harriman and carried unanimously 5-0.

Ordinance 01-42: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 316 ACRES, LOCATED ON THE SOUTHEAST SIDE OF JOHNS LAKE AND WEST OF CR545 AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN, FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Burch)

Assistant City Attorney Rubio read Ordinance 01-42 by title only. Mayor Quesinberry opened the public hearing. Hearing no comments, the public hearing was closed. **Motion by Commissioner Dixon to adopt Ordinance 01-42. Seconded by Commissioner Harriman and carried unanimously 5-0.**

E. **Ordinance 01-43: AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY INCLUDING PROPERTY GENERALLY DESCRIBED AS 316 ACRES OF CERTAIN REAL PROPERTY LOCATED ON THE SOUTHEAST SIDE OF JOHNS LAKE AND WEST OF CR545 FROM ORANGE COUNTY VILLAGE TO**

CITY SUBURBAN DENSITY RESIDENTIAL, AND CONSERVATION OVERLAY; PROVIDING FOR AN EFFECTIVE DATE (Burch)

Assistant City Attorney Rubio read Ordinance 01-43 by title only. Mayor Quesinberry opened the public hearing.

Jeff Graft, 2813 Williams Road, Winter Garden, Florida (unincorporated Orange County), asked the Commission to take into consideration the traffic problems on Marsh Road due in part to the influx of Lake County residents and development along this corridor without road improvements. The density of this Ordinance will impact the area. The Avalon Home and Property Owners Association is very concerned with maintaining their lifestyle and environment they now have. They realize development will happen but they would like to see development consistent with the surrounding area. They have noted that Stoneybrook West put in a golf course and included it as part of their density that reduced the house-to-acre ratio. They would not like to see a development such as Stone Creek. They would like to see a minimum lot size of an acre. Mayor Quesinberry stated that this property was originally one of the Villages for Horizon West and they can't get to it so that is why the County is giving it to the City to be developed. City Planner Cechman stated that the City is working with the developer to obtain additional right-of-way that is needed on 545 to accommodate the County for widening purposes. The minimum they can build is four units per acre in the villages, which is a higher density than the City suburban density. City Planner Cechman announced that state law allows anyone wishing to receive notices from the State Department of Community Affairs may sign-in on the sheet provided in the lobby area. **Motion by Commissioner Graham to adopt Ordinance 01-43. Seconded by Commissioner Thompson and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

A. **Recommendation to approve Final Plat for Stoneybrook West Commercial North (Tract 18)**

City Planner Cechman stated this is a commercial subdivision that must go through the platting process, which has been reviewed by staff who recommends approval with the comments provided in the agenda package. The Planning and Zoning Board has also reviewed the final plat and recommends approval. **Motion by Commissioner Harriman to approve Final Plat for Stoneybrook West Commercial North (Tract 18) with staff recommendations (see attached). Seconded by Commissioner Dixon.** Commissioner Graham asked if this is the corner where there are already two businesses including Walgreen's. Mr. Cechman stated that this tract does include Walgreen's which will allow the property owner to sell the tract to Walgreen's. The platting process does formalize who takes care of what for retention, access, and easements. Commissioner Graham asked why the cover memo refers to FLU Low-Density Residential if it is commercial. Mr. Cechman replied that FLU is allowed in the City Comprehensive Plan as long as it is done as part of the PUD. **Motion carried unanimously 5-0.**

B. **Request for donation by the West Orange High School English as a Second Language Program**

Helga Olafsson was not present. Mayor Quesinberry stated that it is more appropriate for students to go to Washington, D.C. instead of Britain. **Motion by Commissioner Harriman to postpone this item until the applicant can be present. Seconded by Commissioner Thompson and carried unanimously 5-0.**

- C. **RESOLUTION 04-12: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, SUPPORTING THE ADDITION TO THE EXISTING CORRIDOR OF THE GREEN MOUNTAIN SCENIC BYWAY OF THE PORTION OF ROADWAY KNOWN VARIOUSLY AS OLD STATE ROAD 50, OAKLAND AVENUE, AND ORANGE COUNTY 438; BEGINNING AT THE ORANGE AND LAKE COUNTY LINE, RUNNING EAST THROUGH THE TOWN OF OAKLAND AND ENDING AT THE INTERSECTION OF AVALON AND TILDENVILLE SCHOOL ROADS and consider monetary support**

Motion by Commissioner Graham to approve Resolution 04-12. Seconded by Commissioner Harriman and carried unanimously 5-0. City Manager Holden explained that the request for monetary support is to complete this effort and amounts to \$3,750. The Committee is going to request the same amount from Orange County. If the Commission wishes to support the designation, he recommends expending the funds from the contingency fund and not from the donation account. **Motion by Commissioner Dixon to contribute \$3,750 from the contingency fund in support of the scenic highway designation. Seconded by Commissioner Graham.** Commissioner Graham stated that he supports the plan and wishes it could be extended through to Dillard Street. Mr. Holden stated that there maybe some complications with getting a designation that far from the State, but certainly the theme could be carried out further. Mr. Burns stated this has been discussed by the committee. They have been working on this plan for four years and while they think it would qualify for inclusion in the scenic highway corridor, currently the committee feels they have bitten off as much as they can chew at the present time and would like to get this section completed and think about adding in the future. Mr. Burns shared that they are also in the process of trying to purchase, with Lake County, 192 acres on Lake Apopka north of Ferndale. **Motion carried unanimously 5-0.**

- D. **Recommendation to approve Utility Work Agreement with Florida Department of Transportation for State Road 50 Widening Project**

Commissioner Graham referred to the second "whereas" ... from west of Avalon Road to SR 429 and whether or not we are going to have to move some lines west toward Oakland. City Manager Holden responded that they would only have to be moved in Winter Garden. There is discussion with Oakland about moving the lines to where they will not have to be moved again. **Motion by Commissioner Graham to approve Utility Work Agreement with Florida Department of Transportation for State Road 50 Widening Project. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- E. **Recommendation to approve Change Order No. 6 Wastewater Treatment Facility Expansion Project with Encore Construction**

Motion by Commissioner Harriman to approve the final Change Order No. 6 for the Wastewater Treatment Facility Expansion Project with Encore Construction. Seconded by Commissioner Graham and carried unanimously 5-0.

F. Recommendation to approve Resource Officer Program Contract with Orange County School Board

Police Chief Brennan stated this item is for the renewal of the existing contract. Commissioner Graham asked how many officers and which schools are involved. Police Chief Brennan replied that the contract is for one full-time officer at Lakeview Middle School and one part-time officer at Dillard Elementary School. Commissioner Graham asked if the salaries are to be increased by the County. Police Chief Brennan stated that the City requested an increase but the County did not approve the increase for any agency. **Motion by Commissioner Graham to approve Resource Officer Program Contract with Orange County School Board. Seconded by Commissioner Harriman and carried unanimously 5-0.**

G. Recommendation to approve the renewal of Wrecker Service Agreement with Sly's Towing and Recovery

Police Chief Brennan stated this is a renewal of the contract that expired in November. Mayor Quesinberry clarified that Sly's Towing applied and operates within the City limits. Commissioner Thompson asked how the requirement was established. City Manager Holden replied that back in 1990 the City Commission directed the Police Chief to establish a policy that they approved, and that policy has been in effect since. The criteria is that both the business and the facility where the vehicles are stored must be in the City of Winter Garden. Anybody who meets this criteria and other special conditions placed by the Chief such as a secured lot compound etc., could apply and be placed on a rotation list. The only wrecker service to meet the requirement is Sly's Towing. Anyone else meeting that criteria can request the same agreement and go on a rotating list maintained by Dispatch. The Car Store is not in the City of Winter Garden, but in a County enclave. Some years ago, he met with Mr. and Mrs. Paquette, owners of the Car Store, who asked him what they needed to do to get on the list. He told them that the first thing they had to do was to annex into the City and that they would need a special exception approved as they are in a City C-2 zoning corridor but they are operating an industrial business. Additionally, there were existing County Code Enforcement issues with the site that would have to be corrected prior to annexing. He never heard back from them. The City Commission can change the policy to allow someone from outside the City limits to apply for a contract. Commissioner Graham stated his only concern is that Sly does not have the wreckers to handle the heavy vehicles. Under this contract, the City receives free towing. City Manager Holden stated that this contract does not deal with the heavy vehicles, just the police items. Commissioner Graham stated that if the City has to have a garbage truck towed, Sly cannot tow it but it has to be towed by the Car Store. If an accident happens on 50 with a semi truck, they have to contact someone other than Sly. Commissioner Graham reported that the Car Store called him and told him that they would also give free towing. Commissioner Graham asked Mr. Todd Paquette (Car Store owner) how much the City had paid him for services over the past year and he replied \$1,888. If the Car Store had been part of the rotation, the citizens of

Winter Garden would have saved this amount of money. It may be higher or lower next year. The Car Store has nine wreckers and Sly only has three and does not have the equipment to handle heavy items. City Manager Holden stated that he would rather pay \$1,800 out of his own pocket than bring in an industrial operation on the Highway 50 corridor that is about to be six-laned and the City is trying to beautify. The business needs to meet the C-2 zoning requirements and annex into the City, which is what he would love to have them do. Commissioner Graham asked if there were more than one wrecker service in the City, would the services go out to bid. Mr. Holden stated no, they would all be on a rotation basis. **Motion by Commissioner Harriman to approve the renewal of the Wrecker Service Agreement with Sly's Towing and Recovery for four years. Seconded by Commissioner Dixon and carried unanimously 5-0.**

- H. **Resolution 04-13: RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE** (pre-construction loan for stormwater projects)

Assistant City Attorney Rubio read Resolution 04-13 by title only. **Motion by Commissioner Graham to approve Resolution 04-13. Seconded by Commissioner Harriman and carried unanimously 5-0.**

- I. **Acceptance of Orange County Canvassing Board's results for annexation referendum conducted on December 7, 2004 in accordance with Ordinance #04-18 (Kenny Court)**

Mayor Quesinberry announced the results, as certified by the Orange County Canvassing Board; there were 79 registered voters with 26 votes cast. Eight votes were rejected. Of the 18 ballots counted, eight (8) were in favor and ten (10) were against the annexation. Therefore, the annexation failed. **Motion by Commissioner Harriman to accept the County Canvassing Board's results that the annexation referendum failed to pass. Seconded by Commissioner Graham and carried unanimously 5-0.**

5. MATTERS OF CONCERN FROM CITIZENS

Don Miller, 1073 Woodson Hammock Circle, Winter Garden, Florida stated that when something is bad in the City he does not see why something is not done to change it. The Car Store wants to be on the towing rotation and he encouraged and begged the Commission to make a change whereby the Car Store can participate. Mayor Quesinberry stated Mr. Paquette needs to work with the City on this issue.

Shirley Smith, 21 West Crest Avenue, Winter Garden, Florida stated that while operating her business on Highway 50 she witnesses a lot of vehicles running the light at Beulah Road and a lot of weaving in and out the entire length of Highway 50 in Winter Garden. She has offered her location to officers to observe the drivers and asked for more officers on Highway 50.

6. **MATTERS FROM ASSISTANT CITY ATTORNEY** - Lionel Rubio had nothing to report.

7. **MATTERS FROM CITY MANAGER**

A. **Financial Statement for October 2004**

The statement has been provided in two formats and the cover memo explains the details, but the Assistant Finance Director wants to get it in line with our audit.

B. **Appointment of Frank Gilbert, Human Resources Director, as the primary representative to Public Risk Management (PRM)**

Mr. Holden introduced Mr. Gilbert and stated that he has many credentials and is doing a fantastic job for us these past two weeks. This agenda item is to replace the vacancy created with the resignation of Ms. Ward. **Motion by Commissioner Graham to appoint Frank Gilbert as the primary representative to PRM. Seconded by Commissioner Thompson and carried unanimously 5-0.**

Mr. Holden wished everyone a Merry Christmas.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Mayor Quesinberry:

- Stated he doesn't want to set precedent but the Play and Learn Day School on Dillard Street, which provides care to low-income families, is in desperate need of supplies. His wife has made donations of milk and bread, etc., to help them get by for a week. He recommended that the City make a donation to assist them until they start receiving their State aid. He and his wife would make the purchases and present the receipt for reimbursement. **Motion by Commissioner Graham to approve from the donation fund up to \$500 to the Play and Learn Day School in Winter Garden. Seconded by Commissioner Harriman and carried unanimously 5-0.**
- Announced that the regular meeting of December 23, 2004 has been canceled and wished everyone a happy holiday.

Commissioner Dixon:

- Invited everyone to come and welcome the new Maxey Center Director at noon on December 15, 2004.

The meeting was adjourned at 9:14 p.m.